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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,675	12/31/2001	Mathew L. Koele	KCC 4772; K.C. No.16,738	9036

321 7590 09/26/2003

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER

KIDWELL, MICHELE M

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 09/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,675

Applicant(s)

KOELE ET AL.

Examiner

Michele Kidwell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4-6. 6) ☐ Other: ____

Art Unit: 3761

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description:

- Reference character "25"
- Reference character "78"

A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 10, 12 – 14, 16 – 24 and 26 – 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson et al. (US 5,614,281).

With respect to claim 1, Jackson et al. (hereinafter "Jackson") discloses a mechanical fastening system for an article comprising a first fastening component mountable on the article and comprising a stretchable loop material

formed from a laminate including a high bond point nonwoven facing having greater than 225 bond points per square inch (col. 8, lines 1 – 12) and a second fastening component mountable on the article so as to be engageable with the first fastening component, the second fastening component being made of a hook material (figure 3), wherein the stretchable loop material is stretchable during limited movement of the first fastening component relative to the second fastening component when the fastening components are engaged as set forth in figure 6.

The difference between Jackson and claim 1 is the provision that nonwoven facing has greater than 225 bond points per square inch.

It would have been obvious to one of ordinary skill in the art to modify the nonwoven facing of Jackson to provide a greater than 225 bond points per square inch because Jackson discloses the use of about 220 bond points per square inch and teaches that bond densities above the stated range may be used.

With respect to the stretching of the loop material during limited movement of the first fastening component, the examiner notes that the applicant attributes this limitation to position of the loop materials on the product. Specifically, the applicant positions the fastening components along the distal edges of the back side panels abutting or adjacent to the waist end edge [0078]. Jackson discloses the same positioning of the fastening component as set forth in figure 6. In view of this, it can be reasonably assumed that the identical positioning of the identical material of Jackson will ultimately yield a material that is stretchable during

limited movement of the first fastening component relative to the second fastening component when the components are engaged as claimed by the applicant.

With reference to claims 2 – 3, 6, 9, 13, 17, 20, 23, 27, 30 and 33, Jackson discloses a nonwoven facing having greater than 20% bond area as set forth in col. 8, lines 1 – 4.

The difference between Jackson and claim 4 is the provision that the bond area is greater than 30%.

It would have been obvious to one of ordinary skill in the art to provide Jackson with a bond area greater than 30% since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

The difference between Jackson and claim 5 is the provision that nonwoven facing has greater than 250 bond points per square inch.

It would have been obvious to one of ordinary skill in the art to modify the nonwoven facing of Jackson to provide a greater than 250 bond points per square inch because Jackson discloses the use of about 220 bond points per square inch and teaches that bond densities above the stated range may be used.

Additionally, it would have been obvious to one of ordinary skill in the art to provide Jackson with the claimed bond points since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

With reference to claims 7, 10, 14, 18, 21, 24, 28, 31 and 34 see the rejection of claim 4.

The difference between Jackson and claim 8 is the provision that nonwoven facing has greater than 275 bond points per square inch.

It would have been obvious to one of ordinary skill in the art to modify the nonwoven facing of Jackson to provide a greater than 275 bond points per square inch because Jackson discloses the use of about 220 bond points per square inch and teaches that bond densities above the stated range may be used.

Additionally, it would have been obvious to one of ordinary skill in the art to provide Jackson with the claimed bond points since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

With reference to claims 12, 29 and 32, see the rejection of claims 1 – 2.

Regarding claims 16 and 26, see the rejection of claims 1 – 2.

Additionally, Jackson discloses a disposable absorbent article comprising first and second end regions, a liquid impermeable inner layer, an outer layer and an absorbent layer disposed therebetween as set forth in col. 14, lines 23 – 60.

As to claims 19 and 22, see the rejection of claim 8.

Claims 11, 15 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson et al. as applied to claims 1- 10, 12 – 14 and 16 – 34 above, and further in view of Buell et al. (US 5,628,741).

The difference between Jackson and claims 11, 15 and 25 is the provision that the material comprises a mechanically prestrained composite.


Buell et al. (hereinafter "Buell") teaches a material comprising a mechanically prestrained composite as set forth in the abstract.

It would have been obvious to one of ordinary skill in the art to modify the material of Jackson to provide a mechanically prestrained composite because the mechanically prestrained composite will enhance the performance of the elastic feature as taught by Buell in the abstract and in col. 2, lines 7 – 16.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday - Friday, 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 703-308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.


Michele Kidwell
September 17, 2003


WEILUN LO
SUPERVISORY PATENT EXAMINER
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